

SENATE BILL 1263

By Bunch

AN ACT to amend Tennessee Code Annotated, Title 36,
Chapter 2, Part 3, relative to child support.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 36, Chapter 2, Part 3, is amended by
adding the following as a new section thereto:

Section 36-2-3__.

(a) Notwithstanding any provision in this part to the contrary, except as provided in subsection (h), a non-biological parent may petition a court at any time to disestablish parentage of such person's legal child. This subsection (a) shall apply if parentage was established by presumption of parentage pursuant to § 36-2-304 or by any other means.

(b) A petition to disestablish parentage of a legal child shall be filed in the court in this state having continuing, exclusive jurisdiction over the order of support or custody for the child who is subject of the petition; provided, if an order of support has been entered or is pending for such child such petition shall be filed in a court in this state with jurisdiction of actions to establish parentage pursuant to this part.

(c) Service of process and conduct of a trial arising from such petition shall be consistent with procedures established for actions to establish parentage pursuant to this part.

(d) Service of process upon the department of human services of a petition to disestablish parentage of a legal child shall be made upon the attorney general and reporter.

(e)

(1) A court shall enter an order disestablishing parentage pursuant to this section only:

(A) If genetic tests have been administered and paid for by the petitioner pursuant to Section 24-7-112 and the petitioner is excluded as the biological parent of the child;

(B) If disestablishment of parentage would be fair and equitable to the non-biological parent;

(C) After consideration by the court of the best interests of the child in determining whether to disestablish parentage.

Financial considerations of the child shall not be the principal factor in determining the best interests of the child; and

(D) Upon determination by the court of the non-biological parent's willingness to pay child support.

(2) All factors in this subsection (e) shall be given equal weight and consideration by the court. The court shall enter into the record its consideration of such factors and the weight and consideration given to each factor. Visitation shall not be awarded to a non-biological parent who is not ordered to pay child support for such child.

(f) Upon the entry of an order disestablishing parentage, any child support order entered by a court of this state that requires the petitioner to provide current or future support for the child shall be terminated by the court having jurisdiction of that support order; provided, however, if the court in which the parentage disestablishment action was filed determines under subsection (e) that it is appropriate to enter an order disestablishing parentage, and further

determines that the person is financially able to pay or continue to pay child support, then, notwithstanding any law to the contrary, the court may require the person to pay transitional child support for the child for up to sixty (60) days beyond the entry date of such order based upon the child support guidelines of the department of human services, and such order shall be enforceable pursuant to any means provided by law.

(g) No order disestablishing parentage shall modify or terminate any arrearage amounts owed based upon a prior order for the child for whom paternity was disestablished.

(h) A person may not petition a court to disestablish parentage if:

(1) The person legally adopted the child pursuant to the laws of this or any other jurisdiction;

(2) The person entered into a voluntary acknowledgement of paternity of the child pursuant to § 24-7-113 or into a voluntary acknowledgement process of any other applicable jurisdiction. If there is a voluntary acknowledgement of paternity it shall govern the legal relationship between such person and the child;

(3) The person had actual knowledge the child was not the person's biological child at the time a child support order was issued by a court in this state or pursuant to a child support order entered in another jurisdiction; or

(4) The person took affirmative steps to become a parent of a child by artificial means.

(i) If paternity is disestablished pursuant to this section, the court shall order completion of a new birth record for the child and the department of health

shall make any necessary corrections to the child's record to reflect the child's parents in compliance with such order.

SECTION 2. This act shall take effect July 1, 2009, the public welfare requiring it.